

Part IV - Representations and Instructions

Section K

Representations, Certifications, and Other Statements of Offerors

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K.1 FAR 52.204-8 Annual Representations and Certifications (Mar 2020)

- (a)
- (1) The North American Industry Classification System (NAICS) code for this acquisition is **562910, Environmental Remediation Services**.
 - (2) The small business size standard is **750 employees**.
 - (3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.
- (b)
- (1) If the provision at 52.204-7, System for Award Management, is included in this solicitation, paragraph (d) of this provision applies.
 - (2) If the provision at 52.204-7, System for Award Management, is not included in this solicitation, and the Offeror has an active registration in the System for Award Management (SAM), the Offeror may choose to use paragraph (d) of this provision instead of completing the corresponding individual representations and certifications in the solicitation. The Offeror shall indicate which option applies by checking one of the following boxes:

☐ (i) Paragraph (d) applies.

☐ (ii) Paragraph (d) does not apply and the Offeror has completed the individual representations and certifications in the solicitation.
- (c)
- (1) The following representations or certifications in SAM are applicable to this solicitation as indicated:
 - (i) 52.203-2, Certificate of Independent Price Determination. This provision applies to solicitations when a firm fixed-price contract or fixed-price contract with economic price adjustment is contemplated, unless-
 - (A) The acquisition is to be made under the simplified acquisition procedures in part 13;
 - (B) The solicitation is a request for technical proposals under two-step sealed bidding procedures; or
 - (C) The solicitation is for utility services for which rates are set by law or regulation.
 - (ii) 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions. This provision applies to solicitations expected to exceed \$150,000.
 - (iii) 52.203-18, Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements-Representation. This provision applies to all solicitations.
 - (iv) 52.204-3, Taxpayer Identification. This provision applies to solicitations that do not include the provision at 52.204-7, System for Award Management.
 - (v) 52.204-5, Women-Owned Business (Other Than Small Business). This provision applies to solicitations that-

- (A) Are not set aside for small business concerns;
- (B) Exceed the simplified acquisition threshold; and
- (C) Are for contracts that will be performed in the United States or its outlying areas.
- (vi) 52.204-26, Covered Telecommunications Equipment or Services-Representation. This provision applies to all solicitations.
- (vii) 52.209-2, Prohibition on Contracting with Inverted Domestic Corporations-Representation.
- (viii) 52.209-5, Certification Regarding Responsibility Matters. This provision applies to solicitations where the contract value is expected to exceed the simplified acquisition threshold.
- (ix) 52.209-11, Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law. This provision applies to all solicitations.
- (x) 52.214-14, Place of Performance-Sealed Bidding. This provision applies to invitations for bids except those in which the place of performance is specified by the Government.
- (xi) 52.215-6, Place of Performance. This provision applies to solicitations unless the place of performance is specified by the Government.
- (xii) 52.219-1, Small Business Program Representations (Basic & Alternate I). This provision applies to solicitations when the contract will be performed in the United States or its outlying areas.
 - (A) The basic provision applies when the solicitations are issued by other than DoD, NASA, and the Coast Guard.
 - (B) The provision with its Alternate I applies to solicitations issued by DoD, NASA, or the Coast Guard.
- (xiii) 52.219-2, Equal Low Bids. This provision applies to solicitations when contracting by sealed bidding and the contract will be performed in the United States or its outlying areas.
- (xiv) 52.222-22, Previous Contracts and Compliance Reports. This provision applies to solicitations that include the clause at 52.222-26, Equal Opportunity.
- (xv) 52.222-25, Affirmative Action Compliance. This provision applies to solicitations, other than those for construction, when the solicitation includes the clause at 52.222-26, Equal Opportunity.
- (xvi) 52.222-38, Compliance with Veterans' Employment Reporting Requirements. This provision applies to solicitations when it is anticipated the contract award will exceed the simplified acquisition threshold and the contract is not for acquisition of commercial items.
- (xvii) 52.223-1, Biobased Product Certification. This provision applies to solicitations that require the delivery or specify the use of USDA-designated items; or include the clause at 52.223-2, Affirmative Procurement of Biobased Products Under Service and Construction Contracts.
- (xviii) 52.223-4, Recovered Material Certification. This provision applies to solicitations that are for, or specify the use of, EPA-designated items.

- (xix) 52.223-22, Public Disclosure of Greenhouse Gas Emissions and Reduction Goals-Representation. This provision applies to solicitations that include the clause at 52.204-7.
 - (xx) 52.225-2, Buy American Certificate. This provision applies to solicitations containing the clause at 52.225-1.
 - (xxi) 52.225-4, Buy American-Free Trade Agreements-Israeli Trade Act Certificate. (Basic, Alternates I, II, and III.) This provision applies to solicitations containing the clause at 52.225- 3.
 - (A) If the acquisition value is less than \$25,000, the basic provision applies.
 - (B) If the acquisition value is \$25,000 or more but is less than \$50,000, the provision with its Alternate I applies.
 - (C) If the acquisition value is \$50,000 or more but is less than \$83,099, the provision with its Alternate II applies.
 - (D) If the acquisition value is \$83,099 or more but is less than \$100,000, the provision with its Alternate III applies.
 - (xxii) 52.225-6, Trade Agreements Certificate. This provision applies to solicitations containing the clause at 52.225-5.
 - (xxiii) 52.225-20, Prohibition on Conducting Restricted Business Operations in Sudan-Certification. This provision applies to all solicitations.
 - (xxiv) 52.225-25, Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certifications. This provision applies to all solicitations.
 - (xxv) 52.226-2, Historically Black College or University and Minority Institution Representation. This provision applies to solicitations for research, studies, supplies, or services of the type normally acquired from higher educational institutions.
- (2) The following representations or certifications are applicable as indicated by the Contracting Officer:
- ☒ (i) 52.204-17, Ownership or Control of Offeror.
 - ☒ (ii) 52.204-20, Predecessor of Offeror.
 - ☐ (iii) 52.222-18, Certification Regarding Knowledge of Child Labor for Listed End Products.
 - ☐ (iv) 52.222-48, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Certification.
 - ☐ (v) 52.222-52, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Certification.
 - ☐ (vi) 52.223-9, with its Alternate I, Estimate of Percentage of Recovered Material Content for EPA-Designated Products (Alternate I only).
 - ☐ (vii) 52.227-6, Royalty Information.

X (A) Basic.

 (B) Alternate I.

 (viii) 52.227-15, Representation of Limited Rights Data and Restricted Computer Software.

- (d) The Offeror has completed the annual representations and certifications electronically in SAM website accessed through <https://www.sam.gov>. After reviewing the SAM information, the Offeror verifies by submission of the offer that the representations and certifications currently posted electronically that apply to this solicitation as indicated in paragraph (c) of this provision have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201); except for the changes identified below [*Offeror to insert changes, identifying change by clause number, title, date*]. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

FAR Clause	Title	Date	Change

Any changes provided by the Offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on SAM.

K.2 FAR 52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (Dec 2019)

The Offeror shall not complete the representation in this provision if the Offeror has represented that it “does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument” in the provision at 52.204-26, Covered Telecommunications Equipment or Services-Representation, or in paragraph (v) of the provision at 52.212-3, Offeror Representations and Certifications-Commercial Items.

- (a) Definitions. As used in this provision –

“Covered telecommunications equipment or services”, “critical technology”, and “substantial or essential component” have the meanings provided in clause 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

- (b) Prohibition. Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Contractors are not prohibited from providing –

- (1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

- (2) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
- (c) Procedures. The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for “covered telecommunications equipment or services”.
- (d) Representation. The Offeror represents that –

It [] will, [] will not provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from this solicitation.
- (e) Disclosures. If the Offeror has represented in paragraph (d) of this provision that it “will” provide covered telecommunications equipment or services”, the Offeror shall provide the following information as part of the offer –
 - (1) A description of all covered telecommunications equipment and services offered (include brand; model number, such as original equipment manufacturer (OEM) number, manufacturer part number, or wholesaler number; and item description, as applicable);
 - (2) Explanation of the proposed use of covered telecommunications equipment and services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b) of this provision;
 - (3) For services, the entity providing the covered telecommunications services (include entity name, unique entity identifier, and Commercial and Government Entity (CAGE) code, if known); and
 - (4) For equipment, the entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known).

K.3 FAR 52.209-7 Information Regarding Responsibility Matters (Oct 2018)

- (a) Definitions. As used in this provision-

"Administrative proceeding" means a non-judicial process that is adjudicatory in nature, in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative Proceedings, Civilian Board of Contract Appeals Proceedings, and Armed Services Board of Contract Appeals Proceedings). This includes administrative proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include agency actions such as contract audits, site visits, corrective plans, or inspection of deliverables.

"Federal contracts and grants with total value greater than \$10,000,000" means-

- (1) The total value of all current, active contracts and grants, including all priced options; and
- (2) The total value of all current, active orders including all priced options under indefinite-delivery, indefinite-quantity, 8(a), or requirements contracts (including task and delivery and multiple-award Schedules).

"Principal" means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a division or business segment; and similar positions).

- (b) The Offeror [] has [] does not have current active Federal contracts and grants with total value greater than \$10,000,000.
- (c) If the Offeror checked "has" in paragraph (b) of this provision, the Offeror represents, by submission of this offer, that the information it has entered in the Federal Awardee Performance and Integrity Information System (FAPIS) is current, accurate, and complete as of the date of submission of this offer with regard to the following information:
- (1) Whether the Offeror, and/or any of its principals, has or has not, within the last five years, in connection with the award to or performance by the Offeror of a Federal contract or grant, been the subject of a proceeding, at the Federal or State level that resulted in any of the following dispositions:
 - (i) In a criminal proceeding, a conviction.
 - (ii) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
 - (iii) In an administrative proceeding, a finding of fault and liability that results in-
 - (A) The payment of a monetary fine or penalty of \$5,000 or more; or
 - (B) The payment of a reimbursement, restitution, or damages in excess of \$100,000.
 - (iv) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the Contractor if the proceeding could have led to any of the outcomes specified in paragraphs (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this provision.
 - (2) If the Offeror has been involved in the last five years in any of the occurrences listed in (c)(1) of this provision, whether the Offeror has provided the requested information with regard to each occurrence.
- (d) The Offeror shall post the information in paragraphs (c)(1)(i) through (c)(1)(iv) of this provision in FAPIS as required through maintaining an active registration in the System for Award Management, which can be accessed via <https://www.sam.gov> (see 52.204-7).

K.4 Representation of Limited Rights Data and Restricted Computer Software

- (a) This solicitation sets forth the Government's known delivery requirements for data (as defined in the clause at 970.5227-1, Rights in Data--Facilities). Any data first produced or specifically used in the performance of the resulting contract will be subject to that Rights in Data clause, including limited rights data and restricted computer software.
- (b) By completing the remainder of this paragraph, the offeror represents that it has reviewed the requirements for the delivery of technical data or computer software and states [offeror fill-in]—
- [] (1) None of the data proposed for fulfilling the data delivery requirements qualifies as limited rights data or restricted computer software; or

[] (2) Data proposed for fulfilling the data delivery requirements qualify as limited rights data or restricted computer software and are identified as follows:

- (c) Any identification of limited rights data or restricted computer software in the offeror's response is not determinative of the status of the data should a contract be awarded to the offeror.

K.5 DOE-H-2079 Agreement Regarding Workplace Substance Abuse Programs at DOE Sites (Apr 2018)

- (a) Any contract awarded as a result of this solicitation will be subject to the policies, criteria, and procedures of 10 CFR part 707, Workplace Substance Abuse Programs at DOE Sites.
- (b) By submission of its offer, the Offeror agrees to provide to the Contracting Officer, within 30 days after notification of selection for award, or award of a contract, whichever occurs first, pursuant to this solicitation, its written workplace substance abuse program consistent with the requirements of 10 CFR part 707. DOE may grant an extension to the notification or implementation period if necessary as per 10 CFR 707.5(g).
- (c) Failure of the Offeror to agree to the condition of responsibility set forth in paragraph (b) of this provision, renders the Offeror unqualified and ineligible for award.

K.6 DOE-K-2001 Notice of Earned Value Management System (Mar 2019) (Revised)

- (a) Proposals for contracts that are part of a project valued at \$100 million or more.
- (1) The offeror shall provide documentation that the cognizant Federal agency (generally, Office of Project Management Oversight and Assessments at Department of Energy [DOE] headquarters) has determined that its Earned Value Management System (EVMS) complies with the guidelines in the Electronic Industries Alliance Standard 748 (EIA-748). The Government reserves the right to perform reviews of the EVMS when deemed necessary to verify compliance.
- (2) If the offeror proposes to use a system that has not been determined to be in compliance with EIA-748, the offeror shall submit a comprehensive plan for compliance with the guidelines in EIA-748.
- (i) The plan shall—
- (A) Describe the EVMS intended for use in performance of the contract, and how the proposed EVMS complies with the EVMS guidelines in EIA-748;
- (B) Distinguish between the offeror's existing management system and modifications proposed to meet the EVMS guidelines;
- (C) Describe the management system and its application in terms of the EVMS guidelines;
- (D) Describe the proposed procedure for administration of the EVMS guidelines as applied to subcontractors; and

- (E) Describe the process to be used in determining subcontractor compliance with EIA-748.
 - (ii) The offeror shall provide information and assistance as required by the Contracting Officer to support review of the plan.
 - (iii) The offeror's EVMS plan must provide milestones that indicate when the offeror anticipates that the EVMS will be compliant with the guidelines in EIA-748.
- (b) Proposals for contracts that are part of a project valued at \$50 million or more, but less than \$100 million.
- (1) The offeror shall submit a written description of the management procedures it will use and maintain in the performance of any resultant contract to comply with the requirements of the Earned Value Management System clause of the contract. The description shall include—
 - (i) A matrix that correlates each guideline in EIA-748 (current version at time of solicitation) to the corresponding process in the offeror's written management procedures; and
 - (ii) The process to be used in determining subcontractor compliance with EIA-748.
 - (2) If the offeror proposes to use an EVMS that has been determined by the cognizant Federal agency to be in compliance with the EVMS guidelines in EIA-748, the offeror may submit a copy of the documentation of such determination instead of the written description required by paragraph (b)(1) of this provision.
- (c) Subcontracts. The offeror and the Government will make risk-based decisions on which subcontractors (or subcontracted efforts, to potentially include all contract types) will be subject to the clause at FAR 52.234-4, Earned Value Management System. The offeror shall be responsible for ensuring that the identified subcontractors comply with the requirements of FAR 52.234-4.
- (d) Integrated baseline reviews. The Contractor shall deliver a task baseline with each Task Order proposal. The task baseline shall represent the cost, schedule, and entire scope over the ordering period of the associated task. DOE will conduct an Integrated Baseline Review (IBR) for Task Orders not later than 60 calendar days after award of the Task Order. The purpose of the IBR is to verify the technical content and the realism of performance budgets, resources, and schedules. It should provide a mutual understanding of performance risks and the underlying management control systems, and it should formulate a plan to handle these risks. DOE and the Contractor will use the IBR process described in the National Defense Industrial Association (NDIA) IBR Guide (or current version). During IBRs, the project baseline will be jointly scrutinized by the Government and the contractor to ensure complete coverage of the statement of work, logical scheduling of the work activities, adequate resourcing, and identification of inherent risks.

K.7 Organizational Conflicts Of Interest Disclosure

Organizational conflict of interest means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the Government, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

- (a) Each Offeror is to check the appropriate block for each of the questions below. The questions apply equally to the (1) Offeror, (2) intended subcontractors at any tier, (3) consultants, (4) affiliates of the foregoing, and (5) chief executives and directors of any of the foregoing who will be involved in performing the contract, and, accordingly, that the term "Offeror" is defined to include all five types of considerations. The questions shall be completed by each Offeror or person identified.

- (1) Does the Offeror depend upon industries or firms that could be affected by DOE actions related to the contract for a significant portion of its business, or have a relationship (financial, organizational, contractual or otherwise) with such industries or firms that could impair its objectivity or independence? Yes ☐ No ☐
- (2) Would any unfair competitive advantage accrue to the Offeror in either its private or government business pursuits from access to:
 - (i) Data generated under the contract? Yes ☐ No ☐
 - (ii) Information concerning DOE plans and programs? Yes ☐ No ☐
 - (iii) Confidential and proprietary data of others? Yes ☐ No ☐
- (3) Will any proposed subcontractor perform any self-evaluation or inspection of a service or product, or evaluation or inspection of another with whom a relationship exists which could impair objectivity, including evaluation or inspection of goods or services that complete commercially with the performer's goods or services? Yes ☐ No ☐
- (4) Will any of the Offeror's chief executives, directors, or entities, which they own or represent, or any of the Offeror's affiliates be involved in the performance of the contract? Yes ☐ No ☐
 - (i) If the Offeror checked "Yes" above in paragraph (a) (4), will the involvement be performed as part of the Prime contract or a subcontract? Prime Contract ☐ Subcontract ☐
- (5) Do you have any current business arrangements that may conflict with your role as Offeror or subcontractor under this contract? Yes ☐ No ☐
- (b) If the Offeror checked "Yes" to any of the above in paragraph (a), the Offeror shall provide the statement described in paragraph (c) from each entity or person affirmatively responding.
- (c) The statement must contain the following:
 - (1) A statement of any past (within the past 12 months), present, or currently planned financial, contractual, organizational, or other interests relating to the performance of the Performance Work Statement. For contractual interests, such statement must include the name, address, telephone number of the client(s), a description of the services rendered to the previous client(s), and the name of a responsible officer or employee of the Offeror who is knowledgeable about the services rendered to each client, if, in the 12 months preceding the date of the statement, services were rendered to the Government or any other client (including a foreign government or person) respecting the same subject matter of this solicitation, or directly relating to such subject matter. The agency and contract number under which the services were rendered must also be included, if applicable. For financial interests, the statement must include the nature and extent of the interest and any entity or entities involved in the financial relationship. For these and any other interests, enough such information must be provided to allow a meaningful evaluation of the potential effect of the interest on the performance of the statement of work.
 - (2) A statement that no actual or potential conflict of interest or unfair competitive advantage exists with respect to the services required by the Performance Work Statement to be provided in connection with this solicitation.
- (d) Failure of the Offeror to provide the required statement may result in the Offeror being determined ineligible for award. Misrepresentation or failure to report any fact may result in the assessment of penalties associated with false statements or such other provisions provided for by law or regulation.

K.8 Agreement to Use Non-Federal Support Personnel

DOE may employ non-federal evaluators (including employees of DOE contractors) to evaluate proposals submitted in response to Solicitation 89303320REM000066. All such non-federal evaluators are required to sign appropriate non-disclosure and conflict of interest statements prior to any such engagement.

By submission of a signed offer under this solicitation, the Offeror consents to such review by non-federal evaluators.

K.9 Cost and Fee Proposal Certification

The Government publicly furnished certain cost, pricing, and/or estimating information regarding contract activities and requirements during the solicitation phase of this contract. By submitting a signed offer under this Solicitation, the Offeror certifies that:

- (a) It fully recognizes that such information was not warranted in any manner by the Government as to its accuracy or validity, and was for information only;
- (b) The Government does not represent such information as a preferred price offer under the solicitation; and
- (c) Irrespective of the Government-furnished information, the Offeror's estimated cost and estimated fee, upon which this contract award is based, was independently and fully derived from the Offeror's own estimating methods, that the Offeror assumes full and complete ownership of its offered estimated cost and estimated fee, and that it fully acknowledges that the Government makes no warranties, express or implied, as to the completeness or accuracy of the Government-furnished pricing and estimating information.

K.10 Solicitation Certification

By submitting its signed offer, the Offeror represents its understanding that Solicitation number 89303320REM000066 represents the current and complete contracting requirements of the Government for the **Moab Remedial Action Contract**. This Solicitation supersedes in its entirety any prior representations from the Government or attributed to the Government, including, but not necessarily limited to: any information formally provided by the Government prior to release of this Solicitation; remarks made by the Government during, or reported as a result of, industry one-on-one meetings; and any information or conjecture presented by the media, or any other source, on the Government's requirements for this Solicitation. Further, the Offeror represents that the electronic (including versions submitted via FedConnect and/or other electronic media) and hard copy submissions of the proposal are identical.

K.11 Signature/Certification

By signing below, the Offeror certifies, under penalty of law, that the representations and certifications are accurate, current, and complete. The Offeror further certifies that it will notify the Contracting Officer of any changes to these representations and certifications. The representations and certifications made by the Offeror, as contained herein, concern matters within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent representation or certification may render the maker subject to prosecution under 18 USC 1001.

Signature of the Officer or Employee Responsible for the Offer	Date of Execution
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Typed Name and Title of the Officer or Employee Responsible for the Offer

Name of Organization

Address

City, State, Zip Code

Solicitation Number 89303320REM000066

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